

**EXHIBIT V TO
CISNEROS DECLARATION IN
SUPPORT OF PLAINTIFFS'
SUPPLEMENTAL MOTION FOR
CLASS CERTIFICATION
[ECF NO. 418-2]
REDACTED VERSION**

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4
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6 IN RE: HIGH TECH EMPLOYEE)
7 ANTITRUST LITIGATION)
8) No. 11 CV 2509 LHK
9 THIS DOCUMENT RELATES TO:)
10 ALL ACTIONS.)
11 _____)
12
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14 HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY
15 VIDEO DEPOSITION OF JONATHAN ROSENBERG
16 March 13, 2013
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19 REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR
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10:36:44 1 running searches. And they all know their
10:36:49 2 colleges well. They all went to big schools.
10:36:51 3 I went to, like, little, rinky dink Claremont
10:36:53 4 McKenna College in Southern California. There
10:36:54 5 is, like, 200 graduates a year. So I type in
10:36:58 6 suma cum laude Claremont McKenna College, and I
10:36:58 7 find two people and, you know, I try to
10:37:00 8 convince them to join Google. And then I
10:37:03 9 realize I'm not adding any value. Every week
10:37:05 10 I'm showing up in this room, and they're
10:37:08 11 running searches, finding great people, and
10:37:10 12 giving the great people to the recruiters and
10:37:11 13 saying, just send these just tell these
10:37:13 14 people there is a plane ticket to Mountain View
10:37:15 15 and we want to hire them. So I decided that I
10:37:20 16 needed to add some value because I was busy
10:37:22 17 arguing with Larry about the product lines. He
10:37:25 18 didn't think I was a useful executive. So I
10:37:29 19 thought, well, I'll try a different search. So
10:37:32 20 I discovered there was an award at India
10:37:32 21 Institute of Technology called the Gold Medal
10:37:32 22 Award. And I ran a search and I found four
10:37:32 23 people, Prashan, Sihndar, Deep, (phonetic) who
10:37:32 24 won the Gold Medal Award at India Institute of
10:37:32 25 Technology. And I said to the recruiter, call

10:37:32 1 these people and explain to them why they
10:37:32 2 should work at Google. And if they don't agree
10:37:53 3 with you, let me explain it to them. And so
10:37:56 4 and it worked. Like, suddenly we hired a few
10:37:59 5 people. And so the recruiting dynamic is
10:38:04 6 different. It's not the adverse selection of
10:38:06 7 the people that want you, it's the people that
10:38:07 8 you want. The next thing, which is really
10:38:10 9 different"

10:38:13 10 MR. RUBIN: And I'll just object to form.

10:38:14 11 Rule 106.

10:38:17 12 MR. HARVEY: Q. Okay. There are a couple
10:38:22 13 of statements you made in that segment. And I'm
10:38:24 14 just going to repeat them to you because it's
10:38:26 15 easier, given the technology, for me just to say it,
10:38:30 16 and then I'll ask you to explain kind of what you
10:38:32 17 meant by that statement.

10:38:33 18 A. Okay.

10:38:34 19 Q. The first is, we don't want the people who are
10:38:38 20 applying, we want the best people in the world.

10:38:42 21 MR. RUBIN: Objection. Form.

10:38:43 22 MR. HARVEY: Q. What did you mean by that
10:38:45 23 statement?

10:38:46 24 MR. RUBIN: Sorry. I thought you were done,
10:38:47 25 Dean, I'm sorry.

10:38:49 1 Objection. Form.

10:38:55 2 THE WITNESS: I'm not sure how to provide
10:38:58 3 additional clarification beyond what I said.

10:39:03 4 MR. HARVEY: Q. Okay. The second
10:39:07 5 statement that I want to ask you about is, it's not
10:39:10 6 the adverse selection of the people that want you,
10:39:14 7 it's the people that you want. Could you explain
10:39:17 8 what you meant by that statement.

10:39:19 9 MR. RUBIN: Objection. Form.

10:39:32 10 THE WITNESS: Repeat the statement.

10:39:34 11 MR. HARVEY: Q. Sure. It's not the
10:39:35 12 adverse selection of the people that want you, it's
10:39:39 13 the people that you want.

10:39:42 14 MR. RUBIN: Objection. Form.

10:39:45 15 THE WITNESS: I guess you would have to be more
10:39:46 16 specific about what portion of that statement you want
10:39:48 17 me to clarify.

10:39:50 18 MR. HARVEY: Q. Sure. Why don't we break
10:39:51 19 it up. When you used the phrase "adverse selection"
10:39:55 20 in the context of individuals applying to Google,
10:39:59 21 what did you mean by that?

10:40:08 22 A. That there is a bias related to the set of
10:40:13 23 people who apply as opposed to those who don't.

10:40:17 24 Q. And what is that bias?

10:40:18 25 A. That the people who apply, on average, aren't

10:40:21 1 as good.

10:40:24 2 Q. And Google wanted to hire the best people it
10:40:27 3 could?

10:40:28 4 MR. RUBIN: Objection. Form.

10:40:30 5 MR. HARVEY: Q. Correct?

10:40:31 6 A. As a general rule, Google always wanted to hire
10:40:39 7 the best people it could.

10:40:45 8 Q. Okay. I think that's it for the video portion
10:40:47 9 of the deposition.

10:40:56 10 MR. RUBIN: At a break, Dean, can we get a
10:40:57 11 copy? Do you have another

10:41:00 12 MR. HARVEY: I can give it to you right now.

10:41:02 13 MR. RUBIN: Great. Thank you.

10:41:45 14 MR. HARVEY: Q. In your experience at
10:41:46 15 Google, would you say that the typical employee knew
10:41:51 16 what comparable employees were being paid at Google?

10:41:54 17 MR. RUBIN: Objection. Form.

10:41:57 18 THE WITNESS: I don't know.

10:41:59 19 MR. HARVEY: Q. You don't have an opinion
10:42:00 20 one way or another?

10:42:02 21 A. I don't.

10:42:02 22 MR. RUBIN: Objection. Form.

10:42:10 23 MR. HARVEY: Q. Did you think it was
10:42:11 24 important not to share compensation ranges,
10:42:19 25 compensation information about employees generally

10:42:20 1 with the wider population at Google?

10:42:23 2 MR. RUBIN: Objection. Form.

10:42:28 3 THE WITNESS: I guess you have to can you

10:42:30 4 I don't understand exactly what you are asking.

10:42:32 5 MR. HARVEY: Q. Sure. So let me take a

10:42:34 6 step back for a moment.

10:42:36 7 You had information about what various

10:42:39 8 engineers who worked for you were getting paid, correct?

10:42:43 9 A. I did.

10:42:44 10 Q. And that information was superior, in many

10:42:47 11 ways, to the information that the engineers themselves

10:42:51 12 had about what their colleagues were getting paid,

10:42:54 13 correct?

10:42:54 14 MR. RUBIN: Objection. Form.

10:43:01 15 THE WITNESS: I had information that other

10:43:02 16 people did not.

10:43:03 17 MR. HARVEY: Q. Was it important to you to

10:43:05 18 keep that information from the wider population at

10:43:10 19 Google.

10:43:11 20 MR. RUBIN: Objection. Form.

10:43:16 21 THE WITNESS: As a general rule, salary

10:43:18 22 information is something which is kept confidential, and

10:43:22 23 I I generally administered that policy.

10:43:28 24 MR. HARVEY: Q. Do you agree with that

10:43:29 25 policy?

11:32:09 1 number of reasons. One primary reason would be the
11:32:11 2 confidentiality of the candidate.

11:32:14 3 MR. HARVEY: Q. And could you elaborate on
11:32:15 4 that a little bit. What confidentiality concern are
11:32:19 5 you describing?

11:32:21 6 A. A candidate might not want his employer to know
11:32:24 7 that he's interviewing with another firm.

11:32:26 8 Q. And why might a candidate not want his or her
11:32:31 9 employer to know that he's interviewing with another
11:32:33 10 firm, or she's interviewing with another firm?

11:32:37 11 A. I'm sure there are a whole host of relatively
11:32:40 12 obvious reasons that any reasonable person can think of.

11:32:43 13 Q. And what would those obvious reasons be?

11:32:47 14 MR. RUBIN: Objection. Form.

11:32:57 15 THE WITNESS: Can you be specific and give me
11:32:59 16 some possibilities? I can tell you whether I agree or
11:33:01 17 disagree with them rather than just guessing.

11:33:03 18 MR. HARVEY: I don't want you to guess, but you
11:33:04 19 just said that there were some obvious reasons. And so
11:33:07 20 I'd like to have you list what those obvious reasons
11:33:11 21 are.

11:33:12 22 MR. RUBIN: Objection. Form.

11:33:15 23 THE WITNESS: One would be that they could be
11:33:16 24 perceived as disloyal.

11:33:21 25 MR. HARVEY: Q. Are there any others?

11:33:24 1 A. Again, I can't make an exhaustive list for you.
11:33:28 2 I think as a general rule, it's obvious why employees
11:33:31 3 who are looking might not want their employers to know
11:33:34 4 that they're looking.

11:33:41 5 Q. Okay. Why don't we stick with the first reason
11:33:45 6 you gave, that the employer may be concerned that I'm
11:33:49 7 sorry that the employee may be concerned that his or
11:33:52 8 her employer would perceive that person as disloyal.

11:34:02 9 In that circumstance, where an employer
11:34:05 10 discovers that an employee is interviewing at another
11:34:09 11 company, why would that employer perceive that as a
11:34:16 12 disloyal act?

11:34:18 13 MR. RUBIN: Objection. Form.

11:34:23 14 THE WITNESS: Again, there's lots of reasons.
11:34:27 15 I don't I guess I don't understand exactly what you
11:34:29 16 are asking.

11:34:31 17 MR. HARVEY: Q. Well, I'm basically asking
11:34:33 18 you to expand on the point you've already made,
11:34:36 19 which is that an obvious reason why an employee may
11:34:39 20 not want to know or may not want their employer
11:34:43 21 to know that they're interviewing is that they could
11:34:46 22 be perceived as disloyal. So I'm asking why is
11:34:49 23 that? Why is that an obvious concern?

11:34:56 24 MR. RUBIN: Objection. Form.

11:35:00 25 THE WITNESS: Because employees have

11:35:02 1 confidential information, and firms compete with each
11:35:06 2 other and often don't want confidential information
11:35:10 3 going from one company to another through an employee.

11:35:17 4 MR. HARVEY: Q. What about the disloyalty
11:35:20 5 piece? What would be disloyal about interviewing
11:35:23 6 with other companies?

11:35:25 7 MR. RUBIN: Objection. Form.

11:35:27 8 THE WITNESS: You would have to ask the manager
11:35:28 9 of the employee what their view of disloyalty is, but
11:35:33 10 I'm sure that many employees perceive that their
11:35:35 11 managers might think it disloyal, and it therefore not
11:35:38 12 to be in their self interest to have their managers be
11:35:41 13 aware of the fact that they're looking for other
11:35:43 14 employment.

11:35:46 15 MR. HARVEY: Q. And it's fair to say that
11:35:49 16 when an employer learns that an employee is looking
11:35:54 17 around to work for another employer, that this
11:35:59 18 disloyalty concern could result in negative
11:36:04 19 consequences to the career of that employee should
11:36:07 20 that employee choose to stay at the current
11:36:09 21 employer?

11:36:09 22 MR. RUBIN: Objection. Form.

11:36:12 23 THE WITNESS: It's a pretty complex statement.
11:36:15 24 I'm not sure I can speculate on the generality as to
11:36:21 25 whether or not it's true for different people in

12:04:26 1 THE VIDEOGRAPHER: We are now on the record at
12:04:28 2 12:04.

12:04:30 3 MR. HARVEY: Q. Mr. Rosenberg, if you
12:04:30 4 could please take a look at a document that has been
12:04:33 5 previously introduced as Exhibit 1738.

12:04:53 6 A. Okay.

12:04:56 7 Q. Here Mr. Shader responds to Ms. Brown's
12:04:58 8 rejection by e mailing you and Mr. Kordestani
12:05:03 9 separately, correct?

12:05:04 10 A. Yes.

12:05:07 11 Q. And in it, Mr. Shader wrote, "Hey, guys, I
12:05:12 12 think this is a surprising response given the 'small
12:05:16 13 Valley' phenomenon."

12:05:18 14 Do you know what he's referring to here?

12:05:22 15 A. I do not know.

12:05:24 16 Q. Have you ever heard the term "small Valley
12:05:26 17 phenomenon" in the context of recruiting and hiring?

12:05:29 18 MR. RUBIN: Objection. Form.

12:05:31 19 THE WITNESS: I have not.

12:05:36 20 MR. HARVEY: Q. Okay. And the next
12:05:39 21 sentence is, "Omid's and my personal experiences at
12:05:45 22 Netscape would suggest that it's sometimes hard to
12:05:48 23 anticipate the long term consequences of decisions
12:05:52 24 that are made when things are going well."

12:05:57 25 Do you see that?

12:05:58 1 A. I do.

12:05:59 2 Q. Do you have an understanding of what he was
12:06:01 3 saying here in terms of what the potential long term
12:06:04 4 consequences would be?

12:06:07 5 A. I do think I understand what he's saying.

12:06:11 6 Q. And what's that?

12:06:12 7 A. I think he's saying that Google is doing very
12:06:15 8 well, and I'm a partner of yours, and you are choosing
12:06:18 9 not to be helpful to me in this situation. And when
12:06:23 10 things and it's a small world, and I don't appreciate
12:06:29 11 it.

12:06:31 12 Q. Sort of suggesting that if Google needs
12:06:35 13 something from Google in the future, Google may not get
12:06:38 14 the answer it wants?

12:06:42 15 MR. RUBIN: Objection. Form.

12:06:46 16 THE WITNESS: I don't know that that's what
12:06:47 17 he's saying, but he is clearly saying that he's
12:06:52 18 clearly indicating he's not happy with our choice
12:06:56 19 with our decision.

12:06:59 20 MR. HARVEY: Q. Okay. If we could
12:07:12 21 fast forward to the next year, 2004. This was a
12:07:18 22 time of, is it fair to say, explosive growth for
12:07:23 23 Google?

12:07:24 24 A. We were expanding rapidly.

12:07:26 25 Q. And that rapid expansion included hiring

12:07:28 1 rapidly, correct?

12:07:29 2 A. That is correct.

12:07:42 3 MR. HARVEY: This is a new exhibit. I believe
12:07:48 4 we're at 1753.

12:08:00 5 (Whereupon, Exhibit 1753 was marked for
12:08:00 6 identification.)

12:08:06 7 MR. HARVEY: Q. If you could please take a
12:08:08 8 look at the document and let me know when you are
12:08:09 9 ready.

12:08:52 10 A. Okay.

12:08:54 11 Q. Without going through a fairly lengthy email
12:09:00 12 well, first let me say, this is an email that
12:09:03 13 Ms. Brown pardon me, Ms. Brown sent to you and others
12:09:07 14 at Google on June 7th, 2004, correct?

12:09:12 15 A. Correct.

12:09:14 16 Q. Is it fair to say that the topic of this
12:09:16 17 conversation is planning for this rapid growth you just
12:09:20 18 described?

12:09:22 19 MR. RUBIN: Objection. Form.

12:09:26 20 THE WITNESS: The topic of the email relates to
12:09:29 21 headcount planning and engineering hiring.

12:09:33 22 MR. HARVEY: Q. Okay. Is it fair to say
12:09:40 23 that at this time, June 7th, 2004, Google was
12:09:45 24 gearing up to dramatically increase the rate at
12:09:49 25 which it was hiring employees?

12:09:51 1 MR. RUBIN: Objection. Form.

12:09:56 2 THE WITNESS: I'm not sure what "gearing up"
12:09:58 3 means, and I'm not sure I don't have a graph of the
12:10:03 4 rate of hiring. It is clear that we are discussing the
12:10:11 5 hiring of absolute numbers of people that is greater
12:10:14 6 than we had been hired than we had hired in previous
12:10:18 7 years.

12:10:19 8 MR. HARVEY: Q. Okay. And I think I'll
12:10:22 9 just ask you about one thing specifically, which is,
12:10:24 10 if you go to No. 2 I'm sorry, paragraph that's
12:10:36 11 No. 2 in front of it, towards the end of the first
12:10:39 12 page.

12:10:41 13 A. Uh huh. Yes.

12:10:41 14 Q. And she describes director hires yeah. So
12:10:48 15 the topic of this paragraph is the hiring of directors,
12:10:51 16 correct?

12:10:55 17 A. Yes, it is.

12:10:56 18 Q. Okay. And she ends the point by saying, "We
12:11:00 19 will need to drain competitors to accomplish this rate
12:11:04 20 of hiring."

12:11:05 21 Do you see that?

12:11:05 22 A. I do.

12:11:08 23 Q. Do you agree that that's what Google had to do
12:11:11 24 to accomplish that rate of hiring?

12:11:15 25 MR. RUBIN: Objection. Form.

12:29:58 1 MR. RUBIN: Objection. Form.

12:30:08 2 THE WITNESS: I didn't I don't believe I
12:30:10 3 ever really fully understood it.

12:30:14 4 MR. HARVEY: Q. But did you understand
12:30:15 5 that it was for internal purposes only?

12:30:18 6 MR. RUBIN: Objection. Form.

12:30:24 7 THE WITNESS: I don't know whether it was or
12:30:25 8 wasn't an internal confidential list or not.

12:30:30 9 MR. HARVEY: Q. So you don't know, sitting
12:30:31 10 here today, whether it was shared with other
12:30:34 11 companies?

12:30:37 12 A. I don't.

12:30:39 13 Q. Do you know, sitting here today, whether a
12:30:42 14 company was put on or off the list pursuant to an
12:30:45 15 agreement with that company who made similar commitments
12:30:51 16 to Google?

12:30:51 17 A. I do not.

12:30:53 18 Q. You don't know one way or the other?

12:30:55 19 A. I don't.

12:30:59 20 Q. Do you recall discussing the do not call list
12:31:05 21 at meetings of the executive management group?

12:31:08 22 A. I vaguely recall discussions around recruiting
12:31:12 23 policies and procedures, companies and process
12:31:18 24 internal processes related to those companies.

12:31:29 25 Q. And in those discussions, was Google's

12:31:33 1 do not call list part of those discussions?

12:31:45 2 A. I don't remember referring to the list as a
12:31:47 3 do not call list. I remember discussions around the
12:31:51 4 issue of proactively cold calling individuals at other
12:31:57 5 companies or not doing so.

12:32:00 6 Q. And you recall those discussions taking place
12:32:02 7 at meetings of the executive management group?

12:32:08 8 A. I don't recall whether or not they were the
12:32:10 9 official Monday executive management group meetings or
12:32:15 10 other meetings with similar sets of individuals present.

12:32:18 11 Q. Okay. Do you recall when those discussions
12:32:23 12 began, approximately?

12:32:29 13 A. Sometime after I started. So no, I don't
12:32:33 14 recall exactly when they began.

12:32:45 15 Q. Do you recall an event or communication that
12:32:51 16 prompted Google to discuss whether to create a
12:32:54 17 do not call list?

12:32:57 18 MR. RUBIN: Objection. Form.

12:33:01 19 THE WITNESS: I recall events from other
12:33:05 20 individuals that caused us to discuss the policy. I
12:33:11 21 don't know the direct I don't know the timing of the
12:33:14 22 do not call list, nor do I specifically recall the
12:33:17 23 do not call list. So I can't link the causality between
12:33:24 24 the two. But I do recall discussions based on
12:33:27 25 individuals voicing objections.

12:33:30 1 MR. HARVEY: Q. And these individuals were
12:33:31 2 typically the chief executives of other companies,
12:33:34 3 correct?

12:33:40 4 A. I think more often than not, the escalation
12:33:43 5 would come through a chief executive, yes.

12:33:46 6 Q. And those chief executives included Steve Jobs,
12:33:48 7 correct?

12:33:49 8 A. Definitely.

12:33:52 9 Q. And those chief executives included Paul
12:33:55 10 Otellini, correct?

12:33:58 11 A. I don't recall Paul specifically calling us,
12:34:02 12 but I do recall discussions involving Paul on these
12:34:09 13 issues. But I don't recall a particular discussion I
12:34:12 14 don't recall Paul initiating a discussion.

12:34:15 15 Q. Do you recall anyone else initiating a
12:34:16 16 discussion with Paul about these issues?

12:34:20 17 A. No. I believe I was involved in discussions
12:34:29 18 with Paul, but I don't remember whether I initiated
12:34:32 19 them.

12:34:33 20 Q. Okay. Was Mr. Campbell well, he wasn't a
12:34:45 21 chief executive at the time. I guess he was chairman of
12:34:48 22 the board of Intuit.

12:34:49 23 Was he one of those individuals who contacted
12:34:53 24 Google about concerns of Google's recruiting of
12:34:58 25 employees of his company?

12:35:00 1 MR. RUBIN: Objection. Form.

12:35:04 2 THE WITNESS: I believe Mr. Campbell was
12:35:07 3 present for some of these discussions. He was usually
12:35:09 4 present during the Monday after he was often present
12:35:11 5 during the Monday afternoon meetings.

12:35:22 6 MR. HARVEY: Q. Do you recall what the
12:35:23 7 basic terms of Google's do not call list were with
12:35:30 8 respect to the limitations it imposed on Google?

12:35:39 9 MR. RUBIN: Objection. Form.

12:35:39 10 THE WITNESS: Well, I don't exactly. I believe
12:35:41 11 it changed over the course of time, and I was generally
12:35:47 12 ambiguous as to what I generally felt the
12:35:53 13 implications of whatever was on the list was ambiguous.

12:35:59 14 MR. HARVEY: Q. You thought the list
12:36:03 15 imposed ambiguous restrictions on Google?

12:36:09 16 A. I never went through the details of what was on
12:36:11 17 the list, or paid super close attention to exactly how
12:36:15 18 the rules were articulated.

12:36:20 19 Q. Do you have any kind of general understanding
12:36:22 20 of the limitations that were embodied in the do not call
12:36:27 21 list?

12:36:27 22 MR. RUBIN: Objection. Form.

12:36:32 23 THE WITNESS: Again, since the since my
12:36:34 24 understanding of the policies evolved over time, I can't
12:36:44 25 tell you specifically what was embodied within those

12:36:47 1 policies at any given point in time.

12:36:49 2 MR. HARVEY: Q. But generally, if a
12:36:51 3 company was listed on the do not call list, then
12:36:56 4 Google could not cold call into that company,
12:36:59 5 correct?

12:37:01 6 MR. RUBIN: Objection. Form.

12:37:09 7 THE WITNESS: If recruiters cold called into a
12:37:11 8 company that was on the list, they could expect that the
12:37:14 9 other company would escalate and be upset about it.

12:37:18 10 MR. HARVEY: Q. And that initial act of
12:37:19 11 the recruiter, if it happened, would have been in
12:37:22 12 violation of the do not call list, correct?

12:37:26 13 A. I don't know.

12:37:35 14 Q. Are you aware of any other companies, aside
12:37:38 15 from Google, that had a similar do not call list?

12:37:45 16 A. No.

12:38:01 17 Q. In your experience with other companies, did
12:38:04 18 any of those companies have anything similar to the
12:38:09 19 do not call list that Google created?

12:38:11 20 MR. RUBIN: Objection. Form.

12:38:16 21 THE WITNESS: Again, I don't know the specifics
12:38:17 22 of what was on our list. I believe that I believe
12:38:24 23 that I have heard of other companies who, in practice,
12:38:26 24 chose or chose not to allow their recruiters to solicit
12:38:31 25 employees of firms that they engaged in business with,

12:38:35 1 and that that is a generally common practice. But not
12:38:41 2 familiar with the specifics of it.

12:38:50 3 MR. HARVEY: Q. What other companies do
12:38:51 4 you know of that had a list of companies that the
12:39:02 5 company could not cold call into?

12:39:15 6 A. Again, I don't know of such a literal list or
12:39:21 7 what might be on the list. I do remember when I was at
12:39:24 8 Dialog, which was a Knight Ridder subsidiary, that it
12:39:28 9 would not have been considered great form to
12:39:34 10 aggressively pursue the attorneys who were sent by a law
12:39:39 11 firm to help us with a particular project.

12:39:47 12 Q. Do you know whether Dialog maintained a list of
12:39:51 13 companies that Dialog could not cold call into?

12:39:55 14 A. No. But I distinctly remember a conversation
12:39:58 15 about recruiting an attorney that we worked with.

12:40:03 16 Q. When did that conversation occur, basically?

12:40:06 17 A. I don't know. Between 1990 and 1993.

12:40:18 18 Q. Okay. Aside from Dialog, are there any other
12:40:21 19 companies you know of that had a policy of not cold
12:40:28 20 calling into specific companies?

12:40:35 21 A. Not that I know of.

12:40:38 22 Q. Do you know whether Intel had such a policy?

12:40:40 23 MR. RUBIN: Objection. Form.

12:40:46 24 THE WITNESS: No, I don't.

12:40:51 25 MR. HARVEY: Q. Did you ever discuss

12:40:52 1 Intel's recruiting activities with anyone at Intel?

12:41:03 2 A. I believe I may have.

12:41:07 3 Q. And what conversations are you thinking of?

12:41:12 4 A. The only person at Intel who I had any regular
12:41:14 5 interaction with would have been Paul Otellini.

12:41:18 6 Q. Do you recall anything that Paul Otellini said
12:41:21 7 to you about Intel's recruiting?

12:41:23 8 A. No.

12:41:29 9 Q. Do you know whether Intuit had a list of
12:41:31 10 companies that Intuit could not cold call into?

12:41:36 11 A. I do not.

12:41:38 12 Q. Do you know whether Apple had a list of
12:41:40 13 companies that Apple could not cold call into?

12:41:44 14 A. I do not.

12:42:07 15 Q. Was Google's do not call list ever discussed at
12:42:11 16 a meeting of Google's board of directors?

12:42:15 17 A. It may have been.

12:42:16 18 Q. And what makes you think that it may have been?

12:42:26 19 A. Various parties who we've discussed here were
12:42:28 20 generally at those meetings. And our hiring and
12:42:38 21 recruiting practices were reported on in those meetings.

12:42:57 22 Q. And Mr. Campbell would often attend meetings of
12:43:02 23 Google's board of directors, correct?

12:43:03 24 A. Yes.

12:43:17 25 Q. Do you recall an irate call from Steve Jobs to

12:43:24 1 Sergey Brin in February 2005?

12:43:27 2 A. I recall the reporting of Steve being irate.

12:43:32 3 Q. And what do you recall about that?

12:43:44 4 A. That Steve was upset about I don't know
12:43:49 5 which particular conversation you are referring to. I
12:43:51 6 recall a number of instances in which it was reported
12:43:56 7 that Steve was irate. And I recall that the general
12:44:02 8 issues around which he was irate were the hiring of
12:44:09 9 Apple employees into Google.

12:44:15 10 Q. Do you know who at Google Steve called to
12:44:19 11 discuss to discuss that issue?

12:44:25 12 A. I believe at different times he called
12:44:27 13 different people. I'm pretty confident that he called
12:44:29 14 both Eric I believe I remember Eric saying he had
12:44:32 15 received calls, and I believe I remember Sergey saying
12:44:37 16 he received calls.

12:44:38 17 Q. Aside from Eric Schmidt, I take it, and Sergey
12:44:41 18 Brin, do you recall any other individuals at Google who
12:44:46 19 received these calls from Mr. Jobs?

12:44:50 20 A. The only thing I recall specifically is that
12:44:53 21 Alan Eustace also had a lot of direct discussions with
12:44:57 22 Steve, but those were the three primary people who Steve
12:45:00 23 spoke to over the years. I suppose in addition to
12:45:03 24 Larry. I don't recall a discussion with Larry on this
12:45:06 25 issue.

12:45:09 1 Q. Was it well, how common, if at all, was it
12:45:19 2 for Steve Jobs to call someone at Google in an irate
12:45:25 3 fashion?

12:45:27 4 MR. RUBIN: Objection. Form.

12:45:30 5 THE WITNESS: In my experience, our
12:45:32 6 interactions with Steve in our interactions with
12:45:37 7 Steve, he generally exhibited an irate, difficult,
12:45:43 8 ornery, and petulant behavior regarding his feelings
12:45:47 9 about our business dealings.

12:45:52 10 MR. HARVEY: Q. Did you have any that
12:45:54 11 will do.

12:45:55 12 Did you have any direct communications with
12:45:58 13 Steve Jobs?

12:46:01 14 A. No. Not beyond socially acknowledging his
12:46:08 15 existence in the context of events.

12:46:14 16 Q. Did you ever attend meetings or conference
12:46:17 17 calls where Mr. Jobs participated?

12:46:25 18 A. Not that I can recall.

12:46:40 19 Q. Do you recall whether Google first created its
12:46:48 20 do not call list in response to one of these irate calls
12:46:50 21 from Steve Jobs?

12:46:53 22 A. I recall substantive discussion in the time
12:46:57 23 frame occurring in the time frame of the call from
12:47:01 24 Steve. I don't know the exact time lines around such a
12:47:06 25 list or changes to such a list.

12:47:10 1 Q. Why don't we go through some documents

12:47:12 2 A. Okay.

12:47:13 3 Q. that I think can help you.

12:47:16 4 This first one, I don't believe has been

12:47:19 5 introduced before.

12:47:28 6 (Whereupon, Exhibit 1754 was marked for

12:47:28 7 identification.)

12:47:41 8 MR. HARVEY: Q. Please let me know once

12:47:42 9 you've had a chance to examine the document.

12:48:27 10 A. Okay.

12:48:31 11 Q. You know, I should have mentioned this earlier,

12:48:33 12 but you were on the emg@google.com email list during

12:48:38 13 this time, correct?

12:48:40 14 A. Absolutely.

12:48:40 15 Q. And you were throughout the time that you were

12:48:44 16 a member of the EMG, correct?

12:48:47 17 A. Correct.

12:48:50 18 Q. Did you receive this email from Mr. Brin, looks

12:48:54 19 like on February 13th, 2005?

12:48:57 20 A. I'm sure I did.

12:48:57 21 Q. And this email describes one of the irate calls

12:49:00 22 we were just talking about, correct?

12:49:01 23 A. Yes, it does.

12:49:06 24 Q. At the bottom of that first paragraph, Mr. Brin

12:49:10 25 wrote, "He made various veiled threats too, though I am

12:49:15 1 not inclined to hold them against him too much, as he
12:49:19 2 seemed beside himself, (as Eric would say)."

12:49:25 3 Do you know what various veiled threats
12:49:31 4 Mr. Jobs made to Mr. Brin?

12:49:32 5 A. No, I don't.

12:49:33 6 Q. Did you ever discuss those veiled threats with
12:49:36 7 Mr. Brin?

12:49:36 8 MR. RUBIN: Objection. Form.

12:49:41 9 THE WITNESS: It's possible.

12:49:44 10 MR. HARVEY: Q. But you don't remember if
12:49:45 11 they happened, what the substance of those
12:49:48 12 conversations were?

12:49:50 13 A. I do not.

12:49:53 14 Q. And here, in what I just read, Mr. Brin says
12:49:57 15 that Mr. Jobs seemed beside himself, as Eric would say.

12:50:02 16 Do you know what he's talking about there in
12:50:03 17 terms of sounds like a phrase that Eric Schmidt used to
12:50:12 18 describe Mr. Jobs?

12:50:13 19 A. I think he's referring to the odd and
12:50:18 20 idiosyncratic manner of Steve's behavior when he engaged
12:50:24 21 with other companies and projected a great deal of anger
12:50:29 22 on an issue in a way that was unlike what many of us are
12:50:32 23 accustomed to with other executives.

12:50:54 24 Q. Okay. If you could look at Exhibit 561, which
12:50:57 25 appears to be written that Monday by Ms. Brown.

12:51:08 1 A. The following Monday.

12:51:12 2 Q. Yes. Thank you.

12:51:32 3 A. Okay.

12:51:34 4 Q. Do you recall the meeting of the EMG described
12:51:38 5 in this document that took place on February 14th, 2005?

12:51:45 6 A. I believe I was there, but I don't recall the
12:51:47 7 specifics of the meeting.

12:51:50 8 Q. Do you recall, generally, that the senior
12:51:53 9 executives of Google at that meeting discussed Steve
12:51:58 10 Jobs' call and what to do about it?

12:52:04 11 A. I don't recall the discussion occurred at that
12:52:07 12 management meeting, but it seems likely, given the dates
12:52:10 13 and times on these emails.

12:52:14 14 Q. And Ms. Brown wrote in this email, "We agreed
12:52:20 15 in EMG today that we would treat three companies in a
12:52:25 16 special way going forward, Genentech, Intel, and Apple."

12:52:31 17 Do you know why Genentech and Intel were
12:52:33 18 included with Apple here?

12:52:35 19 MR. RUBIN: Objection. Form.

12:52:36 20 THE WITNESS: I don't.

12:52:39 21 MR. HARVEY: Q. Do you know whether Paul
12:52:42 22 at Intel or Mr. Levinson at Genentech made similar
12:52:47 23 calls to Google at the time?

12:52:51 24 A. I do not.

12:52:57 25 Q. Do you recall anything about the discussion

02:32:52 1 Bill and felt that a scenario could evolve in which I
02:32:57 2 want to give a courtesy call to Paul Otellini. But Mike
02:33:00 3 was coming tomorrow, and I'll find out how Mike wants to
02:33:05 4 handle the communication with his own management. And
02:33:08 5 we haven't even gotten to the stage of specifically
02:33:10 6 discussing an offer yet. So my next step is to speak to
02:33:14 7 Mike and then determine what I need to do next.

02:33:28 8 Q. Do you recall what Mike's well, sorry. Did
02:33:33 9 you, in fact, meet with Mike the next day?

02:33:35 10 A. I don't remember.

02:33:39 11 Q. Do you recall speaking with Mike about this
02:33:43 12 issue?

02:33:44 13 A. I do not.

02:33:47 14 Q. Did Mike come to work for Google?

02:33:49 15 A. I don't know.

02:33:51 16 Q. Okay. That's something presumably we can
02:33:56 17 check.

02:34:11 18 Actually, this is the end of a segment. Why
02:34:14 19 don't we take a break.

02:34:16 20 THE VIDEOGRAPHER: We are now off the record at
02:34:17 21 2:34.

02:34:22 22 (Recess taken.)

02:48:36 23 THE VIDEOGRAPHER: We are now on the record at
02:48:37 24 2:48.

02:48:38 25 MR. HARVEY: Q. I'm going to change topics

02:48:42 1 and go forward in time a bit

02:48:45 2 A. Okay.

02:48:45 3 Q. to about 2007.

02:48:49 4 A. Okay.

02:48:51 5 Q. Do you recall that at about that time and in

02:48:53 6 that year, Google began to get particularly concerned

02:48:58 7 with Facebook's recruiting of Google employees?

02:49:03 8 A. I don't recall that it was that time or year,

02:49:05 9 but it sounds roughly correct, and I do recall Google

02:49:09 10 being concerned about Facebook's recruiting.

02:49:14 11 Q. And why did Facebook present a concern for

02:49:19 12 Google in that regard?

02:49:25 13 A. Because they were the next hot, young, pre IPO

02:49:30 14 startup company.

02:49:32 15 Q. They were sort of like where Google was several

02:49:34 16 years prior?

02:49:35 17 A. Relative to large, established companies in the

02:49:38 18 Valley, yes, in many ways, that analogy is correct.

02:49:44 19 Q. And here, the roles were switched a bit where

02:49:48 20 Google had become something of an established company

02:49:51 21 trying to fend off the young upstart; is that fair?

02:50:06 22 MR. RUBIN: Objection. Form.

02:50:06 23 THE WITNESS: I think as I said before, Google

02:50:08 24 was the at this stage, Facebook was the young, hot,

02:50:12 25 pre IPO startup and Google was a larger, more

02:50:15 1 established firm.

02:50:17 2 MR. HARVEY: Q. Okay. If you could please
02:50:34 3 take a look at Exhibit 660.

02:51:16 4 A. Okay.

02:51:17 5 Q. Okay. Did you receive Mr. Brin's email here on
02:51:22 6 the 13th of October, 2007?

02:51:24 7 A. Yes.

02:51:26 8 Q. Okay. And this is an example of the kinds of
02:51:28 9 discussions that Google was having about the retention
02:51:36 10 risk for Google employees presented by Facebook; is that
02:51:40 11 correct?

02:51:45 12 A. That is the subject of discussion does
02:51:48 13 relate to Facebook and retention of Google employees.

02:51:54 14 Q. And then you forwarded that email to Bill
02:51:56 15 Campbell the same day, correct?

02:51:58 16 A. Yes.

02:52:02 17 Q. Is there a reason why you would forward an
02:52:03 18 email like this to Mr. Campbell?

02:52:07 19 A. Again, as my closest management advisor, with
02:52:11 20 whom I discussed many of the important issues on Eric's
02:52:17 21 staff, it was customary from time to time for me to send
02:52:22 22 messages to Eric's staff that he might not have received
02:52:26 23 to him.

02:52:30 24 Q. And this threat that Facebook posed, this was
02:52:32 25 one of the topics you discussed with Mr. Campbell?

02:52:36 1 MR. RUBIN: Objection. Form.

02:52:41 2 THE WITNESS: I did discuss the threat from
02:52:43 3 Facebook from time to time with Mr. Campbell.

02:52:52 4 MR. HARVEY: Q. What, to your knowledge,
02:52:54 5 was Mr. Campbell's view of how Google should respond
02:52:58 6 to the threat from Facebook?

02:53:03 7 A. I don't remember his specific broad view, or
02:53:11 8 how it changed over time.

02:53:15 9 Q. Do you recall discussing with him alternative
02:53:21 10 strategies in terms of how to retain Google employees in
02:53:29 11 light of the Facebook threat?

02:53:35 12 A. I recall him being helpful as [REDACTED]

02:53:39 13 [REDACTED]
02:53:45 14 [REDACTED].

02:53:51 15 Q. And what type of [REDACTED] responses are you
02:54:01 16 referring to?

02:54:02 17 A. [REDACTED]
02:54:04 18 [REDACTED]
02:54:15 19 [REDACTED]
02:54:18 20 [REDACTED] [REDACTED]
02:54:22 21 [REDACTED]

02:54:26 22 Q. Was Mr. Campbell helpful in getting the
02:54:30 23 relevant players at Google to agree that Google should

02:54:35 24 [REDACTED]
02:54:39 25 [REDACTED]

02:54:49 1

A.

02:54:51 2

02:54:56 3

02:54:58 4

02:55:02 5

02:55:08 6

02:55:14 7

Q. And would Bill's assistance include convincing

02:55:18 8

other senior members of Google's executive team, such as

02:55:22 9

Eric Schmidt?

02:55:24 10

MR. RUBIN: Objection. Form.

02:55:29 11

THE WITNESS: Bill operated across the entire

02:55:30 12

management team, and he and I often discussed goals that

02:55:34 13

we collectively had and how to get to a decision or

02:55:41 14

action as quickly as possible.

02:56:01 15

MR. HARVEY: Q. If you could please take a

02:56:02 16

look at Exhibit 608.

02:56:39 17

A. Okay.

02:56:48 18

Q. Is this an example of the expeditious response

02:56:52 19

you were just describing?

02:56:53 20

A. Yes, it appears to be.

02:56:56 21

Q. And this is describing a policy Google had at

02:56:59 22

the point in time of trying to

02:57:04 23

02:57:08 24

02:57:08 25

A. Yes.

02:57:18 1 Q. And did you receive this top email from
02:57:20 2 Mr. Schmidt on the 14th of November, 2007?

02:57:22 3 A. I'm sure I did.

02:57:23 4 Q. Okay. Do you have an understanding of why
02:57:28 5 Mr. Schmidt was concerned that this policy was leaked to
02:57:33 6 other employees of Google?

02:57:38 7 A. As a general rule, it was understood that
02:57:43 8 discussions that occurred at the senior management team
02:57:48 9 were not to be shared widely with employees unless it
02:57:54 10 was agreed that the information would be shared with
02:57:56 11 employees.

02:58:16 12 Q. Did Google monitor how effective these
02:58:18 13 strategies were at retaining Google employees?

02:58:22 14 A. Yes.

02:58:24 15 Q. Do you recall what the view was about whether
02:58:30 16 efforts [REDACTED] was effective
02:58:33 17 in retaining people?

02:58:36 18 A. [REDACTED]
02:58:38 19 [REDACTED]
02:58:42 20 [REDACTED]
02:58:44 21 [REDACTED]

02:59:00 22 Q. Do you recall whether any members of the senior
02:59:07 23 executive team were concerned [REDACTED]
02:59:11 24 [REDACTED], that
02:59:15 25 it would encourage people to go and shop for an offer

02:59:17 1 from Facebook?

02:59:19 2 A. Yeah.

02:59:26 3 Q. And Sergey Brin held that opinion; is that
02:59:30 4 correct?

02:59:32 5 A. I'm confident he articulated that opinion at
02:59:34 6 some points in time. I don't know that he always held
02:59:37 7 that opinion, but I do recall hearing him say that.

02:59:58 8 Q. If you would please look at Exhibit 613.

03:00:25 9 A. Okay.

03:00:28 10 Q. Did you receive this email from Ms. Mayer on
03:00:33 11 March 14th, 2008?

03:00:35 12 A. Yes.

03:00:36 13 Q. And this describes the concern we were just
03:00:40 14 talking about in terms of worrying that word would get
03:00:43 15 out to other Google employees that Google was making
03:00:47 16 counteroffers to certain employees; is that right?

03:00:57 17 A. Yes. It says that rumors and reports, that if
03:01:01 18 you want something, you should go out and get a
03:01:05 19 competitive offer.

03:01:19 20 Q. Do you recall see, I guess summer of 2008 or
03:01:29 21 so, whether there was a discussion at Google to try an
03:01:35 22 alternative strategy, that is, to contact Facebook
03:01:41 23 directly and try to discourage Facebook from recruiting
03:01:45 24 Google people?

03:01:48 25 MR. RUBIN: Objection. Form.

03:01:49 1 THE WITNESS: I don't recall the specific time,
03:01:51 2 but I do recall talking to Sheryl at Facebook about
03:01:57 3 minimizing the degree to which they recruited Google
03:02:00 4 employees.

03:02:02 5 MR. HARVEY: Q. And you know what, we'll
03:02:08 6 get to that in just a minute. Before we I'll
03:02:11 7 show you those emails, we'll talk about it.

03:02:15 8 But for now, before you actually contacted
03:02:19 9 Sheryl Sandberg, do you recall discussions at Google
03:02:24 10 about trying to convince Facebook to enter into a truce
03:02:29 11 with Google with respect to recruiting?

03:02:32 12 MR. RUBIN: Objection. Form.

03:02:35 13 THE WITNESS: I certainly don't recall the
03:02:37 14 timing of these things. I recall many I'm aware of
03:02:43 15 the fact that there were many discussions regarding what
03:02:46 16 to do about the problem of Facebook recruiting Google
03:02:50 17 employees.

03:02:51 18 MR. HARVEY: Q. And was one potential
03:02:52 19 response seeking a truce with Facebook.

03:02:55 20 MR. RUBIN: Objection. Form.

03:02:58 21 THE WITNESS: Well, as we talked about before
03:03:00 22 when we were talking about Apple, we weren't doing any
03:03:04 23 recruiting from them at the time.

03:03:08 24 MR. HARVEY: Q. Uh huh.

03:03:09 25 A. So the only thing I remember is trying to

03:03:11 1 minimize the degree to which they were recruiting from
03:03:14 2 us.

03:03:22 3 Q. Google didn't try to recruit back employees
03:03:24 4 that it lost to Facebook?

03:03:27 5 A. We did. And, in fact, we recruited there is
03:03:31 6 an employee that we recruited back from Facebook, but it
03:03:34 7 had not the scope of our recruiting from Facebook had
03:03:37 8 not risen to a level that they seemed concerned about
03:03:40 9 it. So I don't ever recall them bringing it up with us.

03:03:58 10 Q. If you could please look at Exhibit 616.

03:04:33 11 I'm going to start by asking you about the last
03:04:36 12 email on the back.

03:04:37 13 A. All right.

03:05:04 14 Okay.

03:05:06 15 Q. Did you receive this email from Ms. Brown on
03:05:09 16 June 23rd, 2008?

03:05:11 17 A. Yes.

03:05:12 18 Q. Okay. And in it she says that Bill Campbell,
03:05:16 19 you, and her spoke on that day about, "really doubling
03:05:22 20 down on our efforts to recruit back a couple of people,
03:05:25 21 I'd assume at a high cost, just to stem the tide and
03:05:30 22 give us a better negotiating position on a recruiting
03:05:34 23 'truce'." Do you see that?

03:05:38 24 A. I do.

03:05:39 25 Q. Do you recall the conversation she's

03:05:41 1 describing?

03:05:42 2 A. I don't.

03:05:44 3 Q. Okay. And then she continues, [REDACTED]

03:05:49 4 [REDACTED]

03:05:53 5 [REDACTED]

03:05:56 6 [REDACTED]

03:06:00 7 [REDACTED]

03:06:03 8 Do you understand that that was a strategy that
03:06:11 9 Google attempted?

03:06:12 10 MR. RUBIN: Objection. Form.

03:06:14 11 THE WITNESS: I understand that it's a sentence
03:06:16 12 that she wrote in this email. I don't know that it was
03:06:21 13 a strategy that we attempted. I know of an individual
03:06:25 14 we attempted to hire back. But with respect to whether
03:06:31 15 or not that was an agreed to company strategy, I don't
03:06:34 16 know.

03:06:48 17 MR. HARVEY: Q. And here's Exhibit 666,
03:06:51 18 which I believe is one of the emails you are
03:06:53 19 referring to between you and Sheryl Sandberg.

03:07:09 20 A. Okay. What portion do you want to talk about?

03:07:11 21 Q. Sure. I'm going to start by talking about, it
03:07:16 22 looks like, the beginning of your first email to her on
03:07:21 23 August 9th, 2008 that begins on page 3.

03:07:26 24 A. Okay.

03:07:30 25 Q. In the second paragraph you well first, let

03:07:34 1 me ask, did you send this email to Ms. Sandberg on
03:07:39 2 August 9th, 2008?

03:07:45 3 A. Yes.

03:07:46 4 Q. In the second paragraph you wrote, "I am sorry
03:07:48 5 that broader relations seem to be at Defcon 2 at the
03:07:53 6 corporate level with us right now. Maybe there is a
03:07:55 7 path to navigate where we agree to stay out of each
03:07:58 8 other's way and do no harm." Do you see that?

03:08:02 9 A. Yes.

03:08:02 10 Q. What were you referring to by Defcon 2?

03:08:10 11 A. I assume it's an allusion to the Department of
03:08:14 12 Defense nuclear status levels, and I'm simply pointing
03:08:20 13 out in a colorful way that the companies are not happy
03:08:24 14 with each other at the moment.

03:08:26 15 Q. And why weren't the companies happy with each
03:08:29 16 other?

03:08:30 17 A. Primarily because of the number of people that
03:08:32 18 she was recruiting from Google, I believe.

03:08:35 19 Q. Okay. And then next sentence in that
03:08:42 20 paragraph is, "Maybe there is a path to navigate where
03:08:47 21 we agree to stay out of each other's way and do no
03:08:50 22 harm." Do you see that?

03:08:51 23 A. Uh huh.

03:08:52 24 Q. What path were you referring to here?

03:08:55 25 A. Doesn't say.

03:08:55 1 Q. Well, but I have the fortune of having you in
03:08:59 2 front of me so I can ask you.

03:09:01 3 What did you mean by saying there is a path to
03:09:03 4 navigate where where the two of you would agree to
03:09:08 5 stay out of each other's way?

03:09:14 6 A. Presumably that I could find out what we at
03:09:19 7 Google were upset about and try to convince her to stop.

03:09:23 8 Q. To stop hiring Google people, correct?

03:09:27 9 A. Or reduce it.

03:09:31 10 Q. And then if you go up to Sandberg's response to
03:09:35 11 that, she asked the same question I asked about
03:09:38 12 Defcon 2. And she says, you know, essentially that she
03:09:43 13 doesn't know what you are talking about.

03:09:45 14 And then in your response to her you wrote, "I
03:09:50 15 was referring to the broad relations between us,
03:09:54 16 primarily related to employees leaving from one company
03:09:56 17 and going to the other which have severely strained
03:09:59 18 relations." Is that correct?

03:10:00 19 A. Yeah.

03:10:02 20 MR. RUBIN: Objection. Form.

03:10:02 21 MR. HARVEY: Q. And that's essentially
03:10:04 22 what you were just talking about, correct?

03:10:06 23 A. It's referring to the fact that she's hiring
03:10:08 24 Google employees at an inordinately fast rate.

03:10:15 25 Q. And then in her reply to that she says, "On

03:10:23 1 that, I will say the same thing I keep saying. We have
03:10:26 2 many applicants from all over including Google. I
03:10:29 3 would say that our applicant pool is fairly broad and
03:10:33 4 Google does not represent an inordinate amount, but
03:10:36 5 there are a steady stream of people applying." And then
03:10:40 6 she says, "We are being very strict on the Google
03:10:43 7 non solicit."

03:10:44 8 Do you have an understanding what she means by
03:10:45 9 the "Google non solicit"?

03:10:47 10 A. I believe she's talking about the
03:10:49 11 nonsolicitation in a standard Google hiring agreement.

03:10:53 12 Q. And that is that Google employees agreed in
03:11:02 13 some respect that if they left Google, they wouldn't try
03:11:05 14 to recruit their former coworkers or something to that
03:11:06 15 effect; is that what you mean?

03:11:08 16 A. I believe it says they wouldn't solicit their
03:11:11 17 coworkers for a period of 12 months.

03:11:14 18 Q. And then you responded to her in part by
03:11:29 19 saying, "My personal opinion is that I think you are
03:11:33 20 putting too much weight in your view of the notion of
03:11:35 21 'not soliciting' as though soliciting in itself is the
03:11:39 22 only thing that upsets people. Rather, it is the
03:11:42 23 outcome of people going from one company to the other
03:11:44 24 which is problematic."

03:11:46 25 Do you see that?

03:11:47 1 A. I do.

03:11:47 2 Q. Okay. I'll try to short circuit some of this
03:11:55 3 so we can save some time. She asks you of your view of
03:11:58 4 Google's hiring. And then you responded to her, "My
03:12:01 5 view is we would be better off if neither of us did it.
03:12:04 6 If you all are, I sure as hell will try likewise."

03:12:08 7 Do you see that?

03:12:09 8 A. Uh huh.

03:12:11 9 Q. Here you're offering to her a mutual commitment
03:12:15 10 that both companies would try to reduce the hiring from
03:12:17 11 the other; is that right?

03:12:22 12 A. I'm not offer I don't see that I'm offering
03:12:24 13 any mutual commitment or establishing any agreement, I'm
03:12:28 14 just trying to get a dialogue moving in a direction
03:12:32 15 where she will reduce the scope of her hiring at Google.

03:12:41 16 Q. But you are offering and I understand that
03:12:43 17 you are not entering into an agreement with this email.
03:12:46 18 But it seems to me that you're outlining the terms of a
03:12:51 19 truce with Facebook. Is that a fair assessment?

03:12:58 20 MR. RUBIN: Objection. Form.

03:13:03 21 THE WITNESS: I think I'm saying that I my
03:13:06 22 view is that it would be better off if neither of us did
03:13:11 23 it.

03:13:12 24 MR. HARVEY: Q. And by "it," you mean
03:13:15 25 hiring?

03:13:16 1 MR. RUBIN: Objection. Form.

03:13:22 2 THE WITNESS: It would seem to me that hiring
03:13:24 3 in large hiring large numbers of employees from each
03:13:26 4 other, which seems to be the thing that I objected to at
03:13:30 5 the outset.

03:13:35 6 MR. HARVEY: Q. Okay. If you could go to
03:14:01 7 the bottom of page 1 to Ms. Sandberg's response she
03:14:07 8 says, "That is not what I meant at all. What I
03:14:10 9 meant is that Google grew by hiring from other firms
03:14:13 10 in our industry even when they minded and people
03:14:16 11 like Meg called Eric as we believed in a free labor
03:14:20 12 market."

03:14:23 13 Is it correct that Google grew by hiring from
03:14:25 14 other firms in the industry?

03:14:31 15 A. In addition to hiring people straight out of
03:14:34 16 school, yes.

03:14:39 17 Q. And then I'm just going to jump up to her email
03:14:43 18 to you on August 10th, 2008 at the very top where she
03:14:50 19 says, "I think what really happens is that companies who
03:14:53 20 have relationships agree in limited ways not solicit
03:14:57 21 from each other. To my knowledge, Google has never
03:15:01 22 agreed not to hire from any company."

03:15:02 23 And then she says, "Google did agree not to
03:15:05 24 solicit from Intel, Apple, and maybe a few others due to
03:15:09 25 board relationships, but never not to hire."

03:15:15 1 Is this a true statement of fact, as far as you
03:15:18 2 know, that Google agreed with Intel, Apple, and maybe a
03:15:23 3 few others not to solicit due to board relationships?

03:15:27 4 MR. RUBIN: Objection. Form.

03:15:27 5 THE WITNESS: I don't know the causality of
03:15:30 6 agreements.

03:15:36 7 MR. HARVEY: Q. Okay. Putting causality
03:15:38 8 aside, do you agree that Google, in fact, made these
03:15:42 9 agreements not to solicit with Intel, Apple and
03:15:43 10 maybe a few others.

03:15:45 11 MR. RUBIN: Objection. Form.

03:15:47 12 THE WITNESS: I believe we had a do not call
03:15:49 13 list and a policy as articulated by Mr. Geshuri in the
03:15:54 14 note that we looked at earlier.

03:15:57 15 MR. HARVEY: Q. As far as you know, those
03:15:59 16 weren't pursuant to agreements?

03:16:01 17 MR. RUBIN: Objection. Form.

03:16:02 18 THE WITNESS: I'm not aware of any agreements.

03:16:05 19 MR. HARVEY: Q. So you don't know one way
03:16:06 20 or the other?

03:16:09 21 MR. RUBIN: Objection. Form.

03:16:09 22 THE WITNESS: I'm not aware of any agreements.

03:16:12 23 MR. HARVEY: Q. Okay. Would you say that
03:16:29 24 your attempt to negotiate with Sheryl Sandberg was
03:16:34 25 unsuccessful?

03:16:43 1 MR. RUBIN: Objection. Form.

03:16:48 2 THE WITNESS: I didn't get I don't feel that
03:16:49 3 I had a satisfactory response from Sheryl in achieving
03:16:55 4 my objective.

03:16:57 5 MR. HARVEY: Q. And your objective was to
03:16:59 6 try to convince her to substantially decrease the
03:17:04 7 hiring Facebook was doing at Google, correct?

03:17:07 8 A. My objective was to reduce the overall number
03:17:10 9 of employees that she was hiring from Google.

03:17:17 10 Q. And then shortly following your attempt, which
03:17:19 11 I believe let me just look back at it was August
03:17:30 12 9th, a few days later, Omid Kordestani gave it a shot;
03:17:34 13 is that correct?

03:17:36 14 MR. RUBIN: Objection. Form.

03:17:38 15 THE WITNESS: I don't know what "gave it a
03:17:40 16 shot" means, or when Omid spoke to Sheryl, but I'm sure
03:17:46 17 that from time to time Omid had calls with her as well.

03:17:53 18 MR. HARVEY: Q. Why don't we make it a bit
03:17:55 19 more concrete. If you could please look at
03:17:57 20 Exhibit 619.

03:19:10 21 A. Okay.

03:19:14 22 Q. If you go to the last email Mr. Kordestani
03:19:18 23 wrote, did you receive this on August 13th, 2008?

03:19:24 24 A. Yes.

03:19:24 25 Q. And among other things, Mr. Kordestani

03:19:26 1 describes a meeting with Sheryl Sandberg in which he
03:19:32 2 complained about Facebook's rate of recruiting. Do you
03:19:35 3 see that?

03:19:35 4 A. Yeah. It may have been a phone conversation.
03:19:37 5 Doesn't say there was a meeting.

03:19:39 6 Q. I'll just point you to the subject of the
03:19:42 7 email.

03:19:42 8 A. All right. There was a meeting.

03:19:45 9 Q. And as far as you understand it, Mr. Kordestani
03:19:48 10 was unsuccessful in convincing Sheryl Sandberg to reduce
03:19:54 11 the rate of hiring from Google?

03:19:59 12 A. From reading that email, that would appear to
03:20:01 13 be the case.

03:20:04 14 Q. And then if you turn to the first page, it's an
03:20:07 15 email you wrote in which you describe your discussion
03:20:14 16 with Sheryl; is that right?

03:20:17 17 A. Yes. It appears to be my summary of the
03:20:20 18 previous document.

03:20:22 19 Q. Uh huh. If you could look to the text that
03:20:28 20 starts after the second big redacted box.

03:20:33 21 A. Okay.

03:20:33 22 Q. That begins, "I did have a brief side dialogue"
03:20:36 23 and then ends with a parenthetical?

03:20:39 24 A. Yes.

03:20:39 25 Q. In the parenthetical you wrote that she, Sheryl

03:20:42 1 Sandberg, also saw Shona later that day at a dinner. Do
03:20:47 2 you see that?

03:20:48 3 A. Yes.

03:20:49 4 Q. Do you know whether Shona also had a
03:20:55 5 conversation with Sheryl Sandberg on this topic?

03:21:01 6 A. Seems odd that I would put that in a
03:21:03 7 parenthetical if I hadn't if I were not aware of some
03:21:08 8 discussion, but I don't recall.

03:21:12 9 Q. Okay. And at this time or shortly thereafter,
03:21:27 10 did Mr. Campbell support these efforts to seek a truce
03:21:32 11 with Facebook?

03:21:37 12 MR. RUBIN: Objection. Form.

03:21:37 13 THE WITNESS: I don't know.

03:21:49 14 MR. HARVEY: Q. If you could please look
03:21:50 15 at Exhibit 668.

03:22:05 16 A. Okay.

03:22:06 17 Q. And I'll note that this document just give
03:22:13 18 me one moment was written a few days after the prior
03:22:19 19 one.

03:22:24 20 If you go to the second email, did you write
03:22:26 21 that email to Bill Campbell, Rachel Whetstone and Omid
03:22:30 22 Kordestani?

03:22:31 23 A. Yes.

03:22:33 24 Q. And this is in response to Bill Campbell's
03:22:36 25 email in which he says, "Jonathan, who should contact

03:22:40 1 Sheryl (or Mark) and get a cease fire. We have to get a
03:22:44 2 truce." Correct?

03:22:45 3 A. Correct.

03:22:46 4 Q. Okay. And your response is, "Anybody BUT me!!!
03:22:50 5 That's a good job for brother Omid!"

03:22:52 6 A. Yes.

03:22:55 7 Q. And why did you suggest that brother Omid
03:22:58 8 should do it?

03:22:59 9 A. Because clearly I was not enjoying the
03:23:05 10 interactions with Sheryl on this subject, and I was
03:23:10 11 hoping that somebody else on the management team would
03:23:13 12 take the next steps.

03:23:16 13 Q. And then Bill Campbell responds, in all caps,
03:23:18 14 "YOU!"

03:23:21 15 Did you take any further steps after this to
03:23:26 16 seek a truce with Facebook?

03:23:30 17 MR. RUBIN: Objection. Form.

03:23:32 18 THE WITNESS: I don't know what transpired
03:23:34 19 after this. But if a threat existed where an action
03:23:38 20 needed to be taken and Bill Campbell indicated that I
03:23:40 21 was the next person to take the action, unless there is
03:23:44 22 some thread indicating to the contrary, I'm sure my next
03:23:51 23 step would be to follow up and do as Mr. Campbell
03:23:54 24 suggested.

03:23:56 25 MR. HARVEY: Q. Sitting here today, were

03:23:57 1 you ever successful in seeking a truce with

03:24:03 2 Facebook?

03:24:06 3 MR. RUBIN: Objection. Form.

03:24:11 4 THE WITNESS: I don't believe I was ever

03:24:11 5 successful in getting Sheryl to modify the behavior, if

03:24:15 6 we define modifying the behavior as as changing the

03:24:22 7 practices in which they were engaged in previously

03:24:24 8 related to hiring Google employees.

03:24:33 9 MR. HARVEY: Q. Okay. This may be a good

03:24:40 10 time for a short break.

03:24:41 11 MR. RUBIN: Okay.

03:24:42 12 THE VIDEOGRAPHER: We are now off the record at

03:24:43 13 3:24.

03:24:48 14 (Recess taken.)

03:26:18 15 THE VIDEOGRAPHER: We are now on the record at

03:26:20 16 3:26. This is the end of video No. 2.

03:26:23 17 We are now off the record at 3:26.

03:27:41 18 (Recess taken.)

03:33:40 19 THE VIDEOGRAPHER: We are now on the record at

03:33:41 20 3:33. This is the beginning of video No. 3.

03:33:50 21 MR. HARVEY: Q. Did you ever discuss

03:33:52 22 potential agreements regarding restricting hiring

03:33:57 23 with anyone at Apple from 2004 through 2010?

03:34:05 24 A. Not that I recall.

03:34:10 25 Q. Did the topic of Google restricting recruiting

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2 Reporter licensed in the State of California, License
3 No. 8249, hereby certify that the deponent was by me
4 first duly sworn and the foregoing testimony was
5 reported by me and was thereafter transcribed with
6 computer aided transcription; that the foregoing is a
7 full, complete, and true record of said proceedings.

8 I further certify that I am not of counsel or
9 attorney for either of any of the parties in the
10 foregoing proceeding and caption named or in any way
11 interested in the outcome of the cause in said caption.

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15 In witness whereof, I have hereunto set my
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17 _____ Reading and Signing was requested.

18 _____ Reading and Signing was waived.

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